IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.458 OF 2007

Fortune Sea Carriers(P.) Ltd. ..Petitioner

V/s.

The State of Maharashtra & ors. ..Respondents

Mr.S.R.Chitnis, Senior Counsel
i/b.Mr.A.Z.Mookhtiar, advocate, for petitioner
Mr.S.S.Kini i/b.Mr.Suresh Dubey, advocate, for respondent No.1
Mr.D.P.Adsule, Assistant Public Prosecutor for the State

CORAM : B.H.MARLAPALLE, J.

DATE : 25TH OCTOBER, 2007

P.C.

1. Heard Mr.S.R.Chitnis, learned Senior Counsel with Mr.A.Z.Mookhtiar for the petitioner company. Being aggrieved by the order dated 8th November, 2006 passed by the learned Additional Chief Metropolitan Magistrate thereby keeping the application pending, filed by the present petitioner under Section 451 of the Criminal Procedure Code. The learned Additional Chief

Metropolitan Magistrate observed that the said application could be decided at an appropriate stage during the trial and after recording the evidence. He also noticed that the chargesheet was already filed.

2. Having considered the affidavit filed by respondent No.3 as well as the Police Inspector attached to M.R.A.Marg Police Station, Mumbai, I am satisfied that the view taken by the learned Additional Chief Metropolitan Magistrate cannot be termed as perverse.

3. In the application filed under Section 451 of the Criminal Procedure Code by the present petitioner raised a grievance of freezing of Bank Account. Mr.S.R.Chitnis has relied upon a decision in the case of **Jayendra Saraswathy Swamigal, Tamil Nadu v. State of Tamil Nadu & ors,** reported in **2005 CRI.L.J.4626.** Their Lordships have held that freezing of accounts cannot be continued so as to

bring business of the account holder to a standstill by invoking power under Section 102 of the Criminal Procedure Code. There is no doubt that the pending application has to be decided expeditiously on the basis of the evidence.

4. Hence, it is directed that the pending application filed by the petitioner before the trial Court i.e.C.C.No.55/N of 2006 be heard and decided as per law as expeditiously as possible and preferrably by 31st March, 2008.

(**B.H.MARLAPALLE, J.**)